



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JANUARY 11, 2023

IN THE MATTER OF:

Appeal Board No. 626294

PRESENT: RANDALL T. DOUGLAS, MEMBER

The Department of Labor issued the initial determination holding the claimant ineligible to receive benefits, effective August 29, 2022, on the basis that the claimant did not comply with registration requirements. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance by the claimant. By decision filed October 18, 2022 (), the Administrative Law Judge sustained the initial determination as modified to be effective August 29, 2022 through October 17, 2022.

The claimant appealed the Judge's decision to the Appeal Board.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant filed a claim for benefits, by internet, on August 29, 2022. When he filed, he inadvertently answered "Yes" to a question that asked, "Have you applied for or are you receiving Workers' Compensation?" He had not filed a workers' compensation claim, and he was not aware of any workers' compensation claim being filed on his behalf.

The claimant did not receive any questionnaire from the Department of Labor with respect to whether he was claiming or receiving workers' compensation benefits. Because he did not receive such a questionnaire, he did not complete the questionnaire or return it to the Department of Labor.

OPINION: The credible evidence establishes that, after the claimant filed his unemployment insurance claim on August 29, 2022, the claimant did not receive any questionnaire from the Department of Labor with respect to whether he was claiming or receiving workers' compensation benefits. At the hearing, the claimant testified that he had "no idea" whether he received such a questionnaire, but his mother would know. His mother, who was sequestered, testified unequivocally that he did not receive the questionnaire. Consistent with this testimony, we note that the copy of the questionnaire that was taken into evidence at the hearing is labeled "SAMPLE" and has no information entered for the document's "Mail Date." In the absence of any evidence that the questionnaire was ever mailed, we accept the credible testimony of the claimant's mother that the questionnaire was never received. Therefore, the claimant has shown good cause not to complete and return the questionnaire, and the claimant's failure to register is excused. According, we conclude that the claimant is eligible for benefits.

DECISION: The decision of the Administrative Law Judge is reversed.

The initial determination, holding the claimant ineligible to receive benefits, effective August 29, 2022, on the basis that the claimant did not comply with registration requirements, is overruled.

The claimant is allowed benefits with respect to the issues decided herein.

RANDALL T. DOUGLAS, MEMBER